

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1466 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DEVINERSING S/O SARDARSING JAGDISHSING

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner

Y.F.MEHTA,A.P.P.for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 24/10/96

ORAL JUDGEMENT

Rule.

2. The matter is heard on merits at length.
Therefore, at this stage I proceed to decide the matter finally.

3. This petition is filed by Devindersingh, son of

Sardar Jagdishsingh who is a dealer of arms in Meeruth, Utter Pradesh. He has filed the present petition seeking the quashing of Junagadh Police Station Cr. No. II 347/96 registered on the strength of the First Information Report lodged by Shri Asnani, Police Inspector of Special Squade, A.T.S., Ahmedabad city.

4. On 26-7-1996, the first informant has received information from Police Suprintendent of his branch alongwith the letter of Director General of Police informing him that there is illegal dealing in arms by the present petitioner as well as Anwar Mohmad Siddiq Jagot. On the strength of the said information, he went to the premises of Anwar Mohmad Siddiq Jagot and there on checking his accounts, he found that about 2 fire arms were purchased by said Anwar Mohmad Siddiq Jagot from the present petitioner between 17-11-93 and 4-3-94. He found that all the arms covered by the said transactions were contravening the provisions of Section 8 of the Arms Act. He also found that said Anwar Mohmad Siddiq Jagot had further sold some of the fire arms to other persons. Therefore, he has lodged the F.I.R. in question by naming the present petitioner as well as Anwar Mohmad Siddiq Jagot as the accused for the alleged commission of alleged offences punishable under Section 8 read with Section 25 of the Arms Act.

5. The petitioner has come before this court to quash the said registration of offences against him on the ground that the police of Junagadh have no jurisdiction to investigate the offence against him and that taking of cognizance of offence is hit by the provisions of Section 468 of the Code of Criminal Procedure.

6. From the First Information Report as well as the documents produced by the petitioner alongwith the present petition it seems prima facie that as regards the offence committed in contravention of Section 8 of the Arms Act, as far the present petitioner is concerned, has taken place at Meeruth, Utter Pradesh. Admittedly, the petitioner is a licenced dealer in arms and Anwar Mohmad Siddiq Jagot is also a licenced dealer in arms. Both of them are holding licence for purchase as well as sale of fire arms. It is the case of the first informant that the present petitioner has sold certain fire arms to Anwar Mohmad Siddiq Jagot and those sale of the fire arms are contravening the Section 8 of the Arms Act. But the transaction between the present petitioner and Anwar Mohmad Siddiq Jagot was taken place at Meeruth. Therefore, as regards the commission of the offence by

the present petitioner by contravening the provisions of Section 8 of the Arms Act has taken place at Meeruth. Therefore, the .F.I.R. as regards the petitioner that is pertaining to the alleged offences alleged to have been committed by the petitioner will have to be transferred to the Meeruth Police Station. Therefore, on the face of it, the police of Junagadh cannot investigate the offence alleged to have been committed by the present petitioner under Section 8 of the Arms Act and they will have to transfer the First Information Report lodged against him to Meeruth, Uttar Pradesh.

7. The learned advocate for the petitioner wants me to quash the First Information Report against the present petitioner, but the first information report against the present petitioner could not be quashed. The only hindrance that would be as regards investigating the First Information Report, the First Information Report is not illegal or invalid. The only question is regarding the jurisdiction of the police for investigating the same. It is settled law that if the police have registered a First Information Report of the cognizable offence and if the police have no jurisdiction, then they have only to transfer First Information Report to the police who have got jurisdiction to investigate the same, the First Information Report in such a case could not be quashed. I am therefore, unable to accept the prayer for quashing the First Information Report as the same cannot be said to be illegal, without any base or is an abuse of law.

9. Thus, I partly allow the present petition by holding that as regards the commission of the offences by the present petitioner by contravening the provisions of Section 8 of the Arms Act, the First Information Report registered by Junagadh Police Station should be transferred to the Meeruth Police Station, Uttar Pradesh and Junagadh Police Station should not investigate the said offence as regards to the First Information Report in question.

Rule is made absolute in above terms.

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